

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1732 of 2015
IN
Civil Writ Jurisdiction Case No. 5216 of 2015**

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Hriday Narayan Yadav, s/o Late Fuchkii Yadav, resident of village-Mohuddin Nagar, P.O.-Abhuday Ashram, P.S. Amarpur, District-Banka.

.... Petitioner-Appellant/s

Versus

1. The State of Bihar.
2. The Commissioner-cum-Principal Secretary Human Resources Department, Government of Bihar, Patna.
3. The Vice Chancellor, K. S. D. Sanskrit University, Darbhanga.
4. The Registrar, K.S.D. Sanskrit University, Darbhanga.
5. The Principal, Jagjiwan Sanskrit College Abhyudaya Nagar.

.... Respondents-Respondent/s

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Appearance :

For the Appellant/s : Dr. Anshuman, Advocate

For the Respondent/s : Mr. Ravi Verma, AC to GP-4

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-04-2017

Re.: Interlocutory Application No.7805 of 2015

The delay in filing of this Appeal is condoned.

Re.: Letters Patent Appeal No.1732 of 2015

In this Appeal filed under Clause X of the Letters Patent, challenge is made to an order dated 01.07.2015 passed by the Writ Court in Civil Writ Jurisdiction Case No.5216 of 2015 dismissing the writ petition filed by the petitioner by holding that even if it is assumed that the petitioner is an employee of the College in question, but as the College is not affiliated to the



University, no relief can be granted to him.

The facts, in brief, goes to show that the petitioner claimed that he was appointed by the Jagjiwan Sanskrit College Abhydhaya Nagar and in spite of his appointment, when arrears of salary from 21.10.2002 was not paid to him, he filed the writ petition. Finding the College not to be affiliated to the University, the writ petition was dismissed.

In this appeal, this Court issued notice to the respondents and the respondents have filed a counter affidavit which goes to show that the petitioner claims to be appointed as Sweeper by the Managing Committee of the College in question on 13.03.1982 and thereafter, he was adjusted against a post of Peon on 24.10.2002. However, from the detailed counter affidavit, it is seen that neither the post was sanctioned nor was the appointment made in accordance to the requirements of the statutory provision and even the affiliation of the college with the University was not made. It is a case where the appointment of the petitioner itself becomes doubtful and from the counter affidavit it is further seen that the appointment was not made after following any procedure known to law.

Taking note of the fact that the petitioner's appointment is in an institute which was not affiliated to the University and when



his appointment in accordance to the Statute of the University is not found to be established, we find no error in the order of the learned Writ Court warranting reconsideration. The Appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Sunil/-

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